

Federal Acquisition Regulation

53.301-98

53.301-98 Standard Form 98, Notice of Intention to Make a Service Contract and Response to Notice.

STANDARD FORM 98 Rev. Feb. 1973 U.S. DEPARTMENT OF LABOR EMPLOYMENT STANDARDS ADMINISTRATION		NOTICE OF INTENTION TO MAKE A SERVICE CONTRACT AND RESPONSE TO NOTICE <i>(See Instructions on Reverse)</i>		1. NOTICE NO.	
MAIL TO: <div style="border: 1px solid black; padding: 10px; text-align: center;"> Administrator Wage and Hour Division U.S. Department of Labor Washington, D.C. 20210 </div>			2. Estimated solicitation date <i>(use numerals)</i>		
			Month Day Year		
			3. Estimated date bids or proposals to be opened or negotiations begun <i>(use numerals)</i>		
			Month Day Year		
			4. Date contract performance to begin <i>(use numerals)</i>		
			Month Day Year		
5. PLACE(S) OF PERFORMANCE			6. SERVICES TO BE PERFORMED <i>(describe)</i>		
7. INFORMATION ABOUT PERFORMANCE					
A. <input type="checkbox"/> Services now performed by a contractor B. <input type="checkbox"/> Services now performed by Federal employees C. <input type="checkbox"/> Services not presently being performed					
8. IF BOX A IN ITEM 7 IS MARKED, COMPLETE ITEM 8 AS APPLICABLE					
a. Name and address of incumbent contractor			b. Number(s) of any wage determination(s) in incumbent's contract		
c. Name(s) of union(s) if services are being performed under collective bargaining agreement(s). <i>Important:</i> Attach copies of current applicable collective bargaining agreements			RESPONSE TO NOTICE <i>(by Department of Labor)</i> A. <input type="checkbox"/> The attached wage determination(s) listed below apply to procurement. B. <input type="checkbox"/> As of this date, no wage determination applicable to the specified locality and classes of employees is in effect. C. <input type="checkbox"/> From information supplied, the Service Contract Act does not apply <i>(see attached explanation)</i> . D. <input type="checkbox"/> Notice returned for additional information <i>(see attached explanation)</i> . Signed: _____ <div style="text-align: center;"><i>(U.S. Department of Labor)</i></div> <div style="text-align: center;">_____ <i>(Date)</i></div>		
9. OFFICIAL SUBMITTING NOTICE					
SIGNED:			DATE		
TYPE OR PRINT NAME			TELEPHONE NO.		
10. TYPE OR PRINT NAME AND TITLE OF PERSON TO WHOM RESPONSE IS TO BE SENT AND NAME AND ADDRESS OF DEPARTMENT OR AGENCY, BUREAU, DIVISION, ETC.					
<div style="border: 1px solid black; padding: 10px; text-align: center;"> _____ _____ _____ </div>					

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GENERAL EXPLANATION

The amended Service Contract Act requires the Secretary of Labor to issue wage determinations applicable to employees engaged in the performance of service contracts in excess of \$2,500. Standard Form 98, Notice of Intention to Make a Service Contract, with Attachment A, provides an orderly procedure for a contracting agency to request such a wage determination and for the Department of Labor to respond. Any questions as to whether a notice is required in a particular procurement situation should be resolved by reference to Title 29, Part 4, Code of Federal Regulations, or by submission of the question to the Department of Labor.

Under normal circumstances the Department of Labor will respond to a notice within 30 days of receipt. If there is urgent need for more expeditious handling, this should be explained when the notice is submitted. In the event the necessary response is not received by the contracting agency on a timely basis, the Department of Labor should be contacted.

In any case where section 4(c) of the Act requires adherence to compensation provisions of a collective bargaining agreement applicable under a predecessor contract and the agency desires to request a hearing on the issue of substantial variance between the wages and fringe benefits provided under such agreement and those prevailing in the locality, the request should be submitted with the notice of intent, in accordance with the provisions of 29 CFR 4.10, and sufficiently far in advance of the need for the wage determination to allow time for appropriate action as provided in that section of the regulations.

The notice is divided along functional lines: (1) that part which must be completed by the contracting agency, Items 2 through 10 of the basic form and Items 11 through 14 of the attachment; and (2) the Response to Notice to be completed by the Department of Labor. The basic form and its attachment are provided in quadruplicate sets with carbon inserts. The original and two copies of the basic form and of each set of attachments used (with snap-out carbons removed and the forms fastened together) are to be sent to the address preprinted on the basic form. One copy of the basic form and one copy of the attachment are to be retained by the agency.

INSTRUCTIONS—AGENCY PORTION OF NOTICE

Entries on Basic Form

Item 1—This number is preprinted on the basic form for identification and control purposes. Refer to this number when contacting the Department of Labor about the notice.

Item 2—Enter the estimated solicitation date.

Item 3—Enter the date the bids or proposals are expected to be opened or the negotiations started.

Item 4—Enter the date contract performance is expected to begin.

Item 5—The entry as to place of performance depends on a variety of factors. If the place of performance is fixed, as with a contract for janitorial services at a particular installation, enter the appropriate city, county and State. If performance is to be at several known places, attach a list. If the contract is for transportation services between points, enter the city, county and State of origin and of destination. If the place of performance may be anywhere, depending on who is awarded the contract (as, for example, certain laundry contracts), enter "unknown." If necessary for clarity, attach a brief explanation of the entry in Item 5.

Item 6—Describe the services to be performed in such a manner that it will be clear what type or types of services are called for by the contract. In many instances simple entries will suffice: "Janitorial services at Headquarters Building, Fort Sill," "Food service and kitchen police service at Enlisted Mess, Camp A. P. Hill," "Laundry and drycleaning services for Base Hospital, Eglin AFB," "Garbage collection at Ft. Hood." Unusual types of services must be described in more detail.

Item 7—Mark the appropriate box.

Item 8—It is very important under the amended Service Contract Act that appropriate entries be made in Item 8 if Box A of Item 7 has been marked.

- a. Enter the name and address of the incumbent contractor.
- b. Enter the number(s) of any wage determination(s) made part of the incumbent's contract. For example: 71-69 (Rev. 3) and 69-43 (Rev. 4).
- c. Enter the name(s) of union(s) if any of the services are being performed by the incumbent contractor under collective bargaining agreement(s). If an entry is required in c., a copy of all current applicable collective bargaining agreements must be furnished with the notice. The notice will be returned without action by the Department of Labor if this is not done.

Item 9—It is often necessary for the Department of Labor to get in touch with the contracting official who submitted the notice in order to clarify particular points and expedite a response. The name of this official should be printed or typed in the space provided and he should sign his name above. The telephone number, including area code, should be entered. Enter the date the notice is submitted.

Item 10—Print or type this entry in the space provided within the brackets. This is used by the Department of Labor to identify the contracting agency and for mailing purposes.

ENTRIES ON ATTACHMENT A

Item 11—Enter the notice number found in Item 1 of the basic form. **Item 12**—Enter the classes of service employees to be employed in performing the contract. A simple entry may suffice: "Janitor," "Window cleaner," "Automotive mechanic," "Guard," "Stenographer," "Typist," "Warehouseman," "File clerk." Where more complex jobs are involved, it will expedite handling to use a few lines below the entry for a class to describe briefly what the employee will do—a sort of capsule job description. The entries in Item 12 are crucial as they enable the Department of Labor to "match" the job to be performed against existing wage determinations or available wage payment data.

Item 13—Enter the number of employees to be employed in each class listed in Item 12. Do not omit this figure even though it may be necessary to use a rough estimate.

Item 14—The amended Service Contract Act (section 2(a)(5)) requires the contracting agency to include in the contract: "A statement of the rates that would be paid by the Federal agency to the various classes of service employees if section 5341 of Title 5, United States Code, were applicable to them." The Secretary of Labor is required to give "due consideration" to such rates in making wage and fringe benefit determinations.

For purposes of the entries in Item 14, assume that each class of employees listed in Item 12 is to be Federally employed; that is, to be employed directly as "wage board" or "blue collar" employees by the contracting agency and who, if so employed, would receive wages as provided in 5 United States Code 5341. Enter the hourly wage rate that each such listed class would be paid. The agency's personnel office may be of help in determining the appropriate hourly rate entries.

While the "statement" made part of the contract must include both the hourly wage rates and fringe benefits that would be paid to the various classes, it is not necessary to furnish fringe benefit information as part of the notice. In giving "due consideration" to the fringe benefits that would be paid, the Department of Labor will consult the formula previously made available to all contracting agencies for use in preparing the "statement" required to be made part of the contract.

INSTRUCTIONS—RESPONSE PORTION OF NOTICE

(Completed by Department of Labor)

The original copy of the basic form and the original copy of the attachment will be returned to the contracting agency with appropriate entries by the Department of Labor in that portion of the basic form reserved for Response to Notice.

- A. If this box is marked, the wage determination(s) applicable will be listed by number and attached. The wage rates and fringe benefits reflected in the attached wage determination(s) are applicable to the procurement and must be made part of the contract. (If wage rates and fringe benefits are not provided in the wage determination(s) for particular classes of service employees to be employed on the contract, conforming action must be taken as provided in Title 29, Part 4, section 4.6(b)(2), Code of Federal Regulations.)
- B. If this box is marked, no wage determination applicable to the specified locality and classes of employees is in effect. However, successor contractors may not pay less than the collectively bargained wage rates and fringe benefits, including any prospective increases, applicable to employees of the predecessor contractor except where, upon a hearing, it is found that such wage rates and fringe benefits are substantially at variance with those that prevail in the locality. In no case may an employee be paid less than the minimum wage under section 6(a)(1) of the Fair Labor Standards Act.
- C. From time to time the Department of Labor receives a notice with respect to a proposed contract which, on the basis of the information supplied by the contracting agency, is not subject to the Service Contract Act. If box C is marked, an explanation will be attached.
- D. This box will be marked if the notice must be returned for additional information. An explanation will be attached so that the contracting agency will know what action to take.

ADDITIONAL WAGE DATA

The Department of Labor welcomes any wage rate and fringe benefits data the contracting agency may submit in connection with a notice, as well as any explanatory information that will assist in understanding the proposed procurement.